

AMENDED IN ASSEMBLY JULY 2, 2015

SENATE BILL

No. 694

Introduced by Senator Leno

February 27, 2015

An act to amend Sections 1473, *1485.5*, and 1485.55 of the Penal Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Leno. New evidence: habeas corpus: motion to vacate judgment: indemnity.

Existing law allows every person who is unlawfully imprisoned or restrained of his or her liberty to prosecute a writ of habeas corpus to inquire into the cause of his or her imprisonment or restraint. Existing law allows a writ of habeas corpus to be prosecuted for, but not limited to, false evidence that is substantially material or probative to the issue of guilt or punishment that was introduced at trial and false physical evidence which was a material factor directly related to the plea of ~~guilt~~ *guilty* of the person.

This bill would additionally allow a writ of habeas corpus to be prosecuted on the basis of new evidence which would raise a reasonable probability of a different outcome if a new trial were granted.

Existing law requires the California Victim Compensation and Government Claims Board to recommend an appropriation be made by the Legislature for the purpose of indemnifying a person if the evidence shows that a crime with which the person was charged was either not committed at all, or, if committed, was not committed by that person. Existing law requires that the appropriation recommended shall be a sum equivalent to \$100 per day of incarceration served subsequent to the person's conviction. If a court grants a writ of habeas corpus or

vacates a judgment on the basis of new evidence and finds that the new evidence points ~~unerringly~~ *unerringly* to innocence, existing law requires the board to recommend an appropriation to the Legislature pursuant to these provisions without a hearing.

This bill would require the board to recommend an appropriation to the Legislature if the court finds that ~~the new evidence raises a reasonable probability of a different outcome if a new trial were granted.~~ *person is factually innocent. The bill would make additional clarifying and technical changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1473 of the Penal Code is amended to
2 read:
3 1473. (a) Every person unlawfully imprisoned or restrained
4 of his or her liberty, under any pretense, may prosecute a writ of
5 habeas corpus to inquire into the cause of his or her imprisonment
6 or restraint.
7 (b) A writ of habeas corpus may be prosecuted for, but not
8 limited to, the following reasons:
9 (1) False evidence that is substantially material or probative on
10 the issue of guilt or punishment was introduced against a person
11 at a hearing or trial relating to his or her incarceration.
12 (2) False physical evidence, believed by a person to be factual,
13 probative, or material on the issue of guilt, which was known by
14 the person at the time of entering a plea of guilty, which was a
15 material factor directly related to the plea of guilty by the person.
16 (3) New evidence exists which would raise a reasonable
17 probability of a different outcome if a new trial were granted.
18 (c) Any allegation that the prosecution knew or should have
19 known of the false nature of the evidence referred to in paragraphs
20 (1) and (2) of subdivision (b) is immaterial to the prosecution of
21 a writ of habeas corpus brought pursuant to paragraph (1) or (2)
22 of subdivision (b).
23 (d) This section does not limit the grounds for which a writ of
24 habeas corpus may be prosecuted or preclude the use of any other
25 remedies.

1 (e) (1) For purposes of this section, “false evidence” includes
2 opinions of experts that have either been repudiated by the expert
3 who originally provided the opinion at a hearing or trial or that
4 have been undermined by later scientific research or technological
5 advances.

6 (2) This section does not create additional liabilities, beyond
7 those already recognized, for an expert who repudiates his or her
8 original opinion provided at a hearing or trial or whose opinion
9 has been undermined by later scientific research or technological
10 advancements.

11 *SEC. 2. Section 1485.5 of the Penal Code is amended to read:*

12 1485.5. (a) If the district attorney or Attorney General
13 stipulates to or does not contest the factual allegations underlying
14 one or more of the grounds for granting a writ of habeas corpus
15 or a motion to vacate a judgment, the facts underlying the basis
16 for the court’s ruling or order shall be binding on the Attorney
17 General, the factfinder, and the California Victim Compensation
18 and Government Claims Board.

19 (b) The district attorney shall provide notice to the Attorney
20 General prior to entering into a stipulation of facts that will be the
21 basis for the granting of a writ of habeas corpus or a motion to
22 vacate a judgment.

23 (c) ~~The~~ *In a contested or uncontested proceeding, the express*
24 *factual findings made by the court, including credibility*
25 *determinations, in considering a petition for habeas corpus, a*
26 *motion to vacate judgment pursuant to Section 1473.6, or an*
27 *application for a certificate of factual innocence, shall be binding*
28 *on the Attorney General, the factfinder, and the California Victim*
29 *Compensation and Government Claims Board.*

30 (d) For the purposes of this section, “express factual findings”
31 are findings established as the basis for the court’s ruling or order.

32 (e) For purposes of this section, “court” is defined as a state or
33 federal court.

34 ~~SEC. 2.~~

35 *SEC. 3. Section 1485.55 of the Penal Code is amended to read:*

36 1485.55. (a) In a contested proceeding, if the court ~~grants~~ *has*
37 *granted* a writ of habeas ~~corpus concerning a person who is~~
38 ~~unlawfully imprisoned or restrained;~~ *corpus*, or when, pursuant to
39 Section 1473.6, the court vacates a judgment on the basis of new
40 evidence concerning a person who is no longer unlawfully

1 ~~imprisoned or restrained, judgment, and if the court finds that new~~
2 ~~evidence on the petition raises a reasonable probability of a~~
3 ~~different outcome if a new trial were granted, has found the person~~
4 ~~is factually innocent, that finding shall be binding on the California~~
5 ~~Victim Compensation and Government Claims Board for a claim~~
6 ~~presented to the board, and upon application by the person, the~~
7 ~~board shall, without a hearing, recommend to the Legislature that~~
8 ~~an appropriation be made and the claim paid pursuant to Section~~
9 ~~4904.~~

10 (b) ~~If In a contested or uncontested proceeding, if the court~~
11 ~~grants a writ of habeas corpus concerning a person who is~~
12 ~~unlawfully imprisoned or restrained on any ground other than new~~
13 ~~evidence that raises a reasonable probability of a different outcome~~
14 ~~if a new trial were granted, and did not find the person factually~~
15 ~~innocent in the habeas proceedings, the petitioner may move for~~
16 ~~a finding of innocence by a preponderance of the evidence that~~
17 ~~the crime with which he or she was charged was either not~~
18 ~~committed at all or, if committed, was not committed by him or~~
19 ~~her.~~

20 (c) If the court vacates a judgment pursuant to Section 1473.6,
21 on any ground other than new evidence that raises a reasonable
22 probability of a different outcome if a new trial were granted,
23 ground, the petitioner may move for a finding of innocence by a
24 preponderance of the evidence that the crime with which he or she
25 was charged was either not committed at all or, if committed, was
26 not committed by him or her.

27 (d) If the court makes a finding that the petitioner has proven
28 his or her innocence by a preponderance of the evidence pursuant
29 to subdivision (b) or (c), the board shall, without a hearing,
30 recommend to the Legislature that an appropriation be made and
31 any claim filed shall be paid pursuant to Section 4904.

32 (e) A presumption does not exist in any other proceeding for
33 failure to make a motion or obtain a favorable ruling pursuant to
34 subdivision (b) or (c).

35 (f) If a federal court, after granting a writ of habeas corpus,
36 pursuant to a nonstatutory motion or request, finds a petitioner
37 innocent by no less than a preponderance of the evidence that the
38 crime with which he or she was charged was either not committed
39 at all or, if committed, was not committed by him or her, the board
40 shall, without a hearing, recommend to the Legislature that an

1 appropriation be made and any claim filed shall be paid pursuant
2 to Section 4904.
3 (g) For the purposes of this section, “new evidence” means
4 evidence that was not available or known at the time of trial that
5 raises a reasonable probability of a different outcome if a new trial
6 were granted. *trial.*